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EDITORIAL NOTE: Nomenclature changes to part 219 appear at 59 FR 7457, Feb. 15, 1994.

Subpart A—General

§ 219.1 Purpose and scope.

(a) The purpose of this part is to prevent accidents and casualties in railroad operations that result from impairment of employees by alcohol or drugs.

(b) This part prescribes minimum Federal safety standards for control of alcohol and drug use. This part does not restrict a railroad from adopting and enforcing additional or more stringent requirements not inconsistent with this part.

§ 219.3 Application.

(a) Except as provided in paragraphs (b) and (c), this part applies to—

(1) Railroads that operate rolling equipment on standard gage track which is part of the general railroad system of transportation; and

(2) Railroads that provide commuter or other short-haul rail passenger service in a metropolitan or suburban area

(as described by section 202(e) of the Federal Railroad Safety Act of 1970, as amended).

(b)(1) This part does not apply to a railroad that operates only on track inside an installation which is not part of the general railroad system of transportation.

(2) Subparts D, E, F and G do not apply to a railroad that employs not more than 15 employees covered by the Hours of Service Act (45 U.S.C. 61–64b) and that does not operate on tracks of another railroad (or otherwise engage in joint operations with another railroad) except as necessary for purposes of interchange.

(3) Subpart I does not apply to a railroad that has fewer than 400,000 total manhours.

(c) Subparts E, F and G do not apply to operations of a foreign railroad conducted by covered service employees whose primary place of service (“home terminal”) for rail transportation services is located outside the United States. Such operations and employees are subject to subparts A, B, C, and D when operating in United States territory.

[54 FR 53259, Dec. 27, 1989, as amended at 59 FR 7457, Feb. 15, 1994]

§219.5 Definitions.

As used in this part—

Alcohol means the intoxicating agent in beverage alcohol, ethanol or other low molecular weight alcohols including methyl or isopropyl alcohol.

Alcohol concentration (or content) means the alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath (as indicated by a breath test under this part) or grams of alcohol per 100 milliliters of whole blood.

Alcohol use means the consumption of any beverage, mixture or preparation, including any medication, containing alcohol.

Class I, “Class II,” and “Class III” have the meaning assigned by regulations of the Interstate Commerce Commission (49 CFR Part 1201; General Instructions 1–1), as those regulations may be revised and applied by order of the Commission (including modifications in class thresholds based revenue deflator adjustments).

Confirmation test means a second test, following a screening test with a result of .02 or greater, that provides quantitative data of alcohol concentration.

Consortium means an entity, including a group or association of employers or contractors, that provides alcohol testing as required by this part or other DOT alcohol testing regulation and that acts on behalf of the employers.

Controlled substance has the meaning assigned by 21 U.S.C. 802 and includes all substances listed on Schedules I through V as they may be revised from time to time (21 CFR parts 1301–1316).

Covered employee means a person who has been assigned to perform service subject to the Hours of Service Act (45 U.S.C. 61–64b) during a duty tour, whether or not the person has performed or is currently performing such service, and any person who performs such service. (An employee is not “covered” within the meaning of this part exclusively by reason of being an employee for purposes of section 2(a)(3) of the Hours of Service Act, as amended (45 U.S.C. 62(a)(3)).) For the purposes of pre-employment testing only, the term covered employee includes a person applying to perform covered service.

Co-worker means another employee of the railroad, including a working supervisor directly associated with a yard or train crew, such as a conductor or yard foreman, but not including any other railroad supervisor, special agent or officer.

DOT Agency means an agency (or “operating administration”) of the United States Department of Transportation administering regulations requiring alcohol or controlled substance testing (14 CFR parts 61, 63, 65, 121 and 135; 49 CFR parts 199, 219, 382 and 654) in accordance with part 40 of this title.

Drug means any substance (other than alcohol) that has known mind or function-altering effects on a human subject, specifically including any psychoactive substance and including, but not limited to, controlled substances.

Field Manual refers to the document described in §219.19 of this subpart.

FRA means the Federal Railroad Administration, U.S. Department of Transportation.